

**FCC Reform Comments on Human Resource Allocation and Management;
Training and Development**

Comments Related to Recommendations 4.9, 4.15 and 4.16

GN Docket 14-25

In 2010-2011, the FCC senior Human Resources Management (“HR staff”) staff and/or senior agency staff undertook an “organizational review or study” of a representative sample of the administrative offices located within the Bureaus/Offices. The staff concluded that GS-301-14 Deputy Administrative Management supervisory positions should be eliminated since these positions duplicated work already performed by the GS-301-15 Administrative Bureau Chiefs for Management (“ABC’s for management”). The study also concluded that there were too many non-supervisory GS-13 Administrative Management Specialists and that in the future, these positions should have a lower full performance level (“FPL”) of a GS-11 or GS-12.

This organizational review or study was conducted secretly by senior staff and very little information was shared with the administrative staff. For example, I submitted FOIA 2011-423 (copy attached) in order to obtain additional information about the study. However, Mindy Ginsberg, Deputy Managing Director, denied my request on the basis that “the analysis and recommendations are the type of materials that may be withheld under the deliberative process privilege that is part of FOIA Exemption 5, 5 U.S.C. Section 552(b)(5).”

Therefore, the administrative staff was unable to obtain relevant information and provide constructive feedback on the study, such as determining the information utilized by the HR staff to come to certain conclusions in the study. In my opinion, these actions damaged the morale of non-supervisory administrative staff throughout the agency.

At the same time that this organization review or study was undertaken by HR and/or other senior agency staff, HR staff quickly processed promotions of several staff to GS-301-15 ABC for management positions. As a Management Analyst who has performed position classification work for the agency for approximately 15 years in an administrative office, the removal of the GS-14 Deputy position and lowered FPL of non-supervisory staff adversely impacts the grade of the ABC’s for management. In other words, the GS-15 grade level is no longer supportable for the ABC’s for management position. Additionally, HR

removed the career ladder of all non-supervisory staff aspiring to be promoted to management positions.

The administrative staff in Bureaus/Offices who are responsible for HR work perform approximately 80% or more of the duties performed by HR staff in the Human Resources Management (HRM) Office. For example, in order to post a position, the administrative staff in the Bureaus/Offices perform the most difficult and time-consuming work of reviewing, editing and classifying position descriptions (“PDs”), developing the vacancy announcement in an automated system, communicating with management staff to determine their staffing needs and making recommendations to meet their needs, conducting desk audits (non-competitive promotions of staff based on additional and higher graded duties) and writing Position Evaluation Statements (“desk audit reports”) to reflect their findings of the desk audit.

After performing this complex work, the higher graded GS-14 HR Specialists in HRM review and approve the work completed by the administrative staff and complete additional details to finalize the vacancy announcement and concur with the findings of the desk audit. One significant difference between the administrative staff and the HR Specialist is that the HR Specialist performs delegated examining unit (DEU) work. DEU is an authority that the Office of Personnel Management (OPM) grants to agencies to fill competitive civil service jobs with applicants applying from outside the Federal workforce; Federal employees who do not have competitive service status; or Federal employees with competitive service status. Of particular note, OPM only delegates DEU authority to staff working in an HR office – not to administrative staff in the Bureaus/Offices. This knowledge and work experience in DEU often prohibits administrative staff from qualifying for HR positions at the GS-14 level and is often made a mandatory requirement (selective factor) in order to qualify for GS-14 HR Specialist positions.

It has been my personal experience that some ABC’s for management are not supportive of the administrative staff acquiring knowledge and experience that would qualify them for higher grade positions because they want to keep their current staff so that they will not have to retrain new staff and may encounter budget limitations that may prevent the ABC’s for management from backfilling certain positions, particularly at the GS-13 grade level. Additionally, some ABC’s for management have not been proactive in ensuring that the administrative staff are kept abreast of changes in the agency that impact their work, such as recent policy changes made by the Office of Managing Director (OMD) and staffing changes.

Some ABC's for management lack substantive knowledge of the programs and/or functions that they supervise. Therefore, they are unable to provide expert guidance and constructive feedback with regard to significant issues under the purview of their organizations. This adversely impacts the productivity and morale of the administrative staff.

Although there have been barriers to promotion for administrative staff in Bureaus/Offices throughout the agency, HR has continued to hire a high volume of contract staff to perform a myriad of HR-related duties such as retrieving Official Personnel Files (OPFs), posting vacancy announcements, and other HR-related work.

A study should be conducted to identify and eliminate duplication of functions performed by the administrative staff, OMD staff and contractors in the areas of budget, travel and other administrative functions.

In summary, major changes are needed to streamline administrative operations in order to make them more efficient and effective in meeting the needs of agency staff.

I have the following specific recommendations:

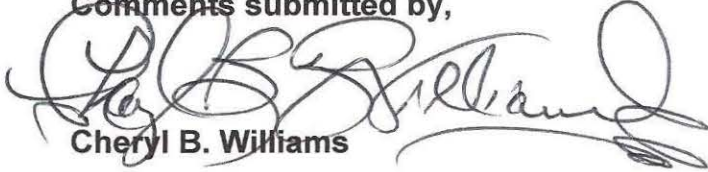
1. I recommend that a new, objective study be undertaken of the administrative functions in all Bureaus/Offices, including whether the grade levels of GS-15 ABC for management positions continue to be supportable. (This study should not be conducted by the same staff who performed the initial organizational review or study).
2. After conducting a thorough and unbiased study, I recommend that senior Commission staff consider eliminating or streamlining administrative offices because many of the functions may duplicate work performed by Office of Managing Director (OMD) staff, such as budget, travel and HR, while creating organizational barriers for promotion of administrative staff.
3. Administrative staff who perform HR work should be transferred to HR and trained in all areas of HR-related work including DEU. Then, the grade levels of the administrative staff should be upgraded to the GS-14 grade level consistent with the other HR specialists. All HR staff would perform the full range of HR-related duties.

4. The contract staff should be eliminated or downsized significantly since the administrative staff who have been transferred to HR, would perform HR work previously handled by contract staff.
5. More awards should be available to administrative staff to boost their morale, such as Employee of the Year Awards for non-bargaining unit staff and group awards for team projects. Additionally, more time-off awards and Special Service awards should be awarded to non-bargaining unit staff. (Note: Currently, Employee of the Year Awards are only for bargaining unit staff).
6. Meetings should be held on a regular basis to keep employees abreast of changes in Commission and OPM rules, regulations and policies that impact their work and participate in seminars, workshops and other networking functions within and outside of the agency on a regular basis.
7. Any studies conducted in the future should be made available to all Commission staff for review and comment before implementation of the findings of the studies. Management should establish and implement policies to be more open and transparent with regard to sharing information that impacts Commission staff. Meetings should be held to discuss details of the studies and to respond to any questions that employees may have with regard to the studies.
8. Changes to the performance appraisal system need to be made to recognize employees who are stellar performers and the system should include employees rating their supervisors.
9. Prospective supervisors should be trained thoroughly and demonstrate expert knowledge and experience in most, if not all, of the areas that will be under their purview as supervisors/managers. Most important are improving their "people skills," including how to communicate with employees, maintain their supervisory authority without being abusive or condescending.
10. Non-bargaining employees generally follow the current Bargaining Unit Agreement (BNA) with regard to various agency matters. However, they cannot be represented by the Union because they are in "confidential" positions. A grievance process for non-bargaining unit staff, not subject to management decision or control, needs to be established to resolve

complaints that are not equal employment opportunity (EEO) related matters.

In conclusion, I believe that implementing the suggestions stated above will result in increased productivity and morale of administrative staff while making the agency's administrative processes more efficient and effective for the benefit of all Commission staff.

Comments submitted by,

A handwritten signature in black ink, appearing to read "Cheryl B. Williams", with a large, stylized flourish at the end.

Cheryl B. Williams

CherylB.Williams@fcc.gov

FCC/International Bureau

Administrative and Management Staff

445 12th Street, SW
Room 6-C860
Washington, DC 20554
June 8, 2011

To: Bonita Tingley, Chief, Human Capital Officer,
Human Resources Management

Mary Beth Richards, Special Counsel for FCC Reform,
Chairman's Office

Edward Lazarus, Chief of Staff, Chairman's Office

2011 JUN -9 A 8:06
2011-493
STAFF

Dear Ms. Tingley, Ms. Richards and Mr. Lazarus:

During 2010 and/or 2011, a study of administrative positions was undertaken by Bonita Tingley, Chief, Human Capital Officer, in the Human Resources Management Office (HRM) and Mary Beth Richards, Special Counsel for FCC Reform, FCC Chairman's Office and other Commission staff. I am requesting a complete and unredacted written copy of this study.

I have additional questions pertaining to the above-referenced study:

1. Why was the study undertaken?
2. What was the scope of the study? (e.g., Did it involve reviewing certain positions within certain Bureaus/Offices or all administrative positions in all Bureaus/Offices?)
3. What sources of information did you use for the study? (e.g., interviews with the Assistant Bureau Chiefs for Management ("ABC-Mgmt"), position descriptions, etc)
4. Why were certain personnel actions processed while the study was being conducted while other postings and accretion of duties promotions were delayed until the study was completed? (For example, the GS-301-15 Assistant Bureau Chief for Management position in the International Bureau was posted promptly before the study was completed. However, other postings and accretions in the same office were delayed pending conclusion of the study).
5. What are the conclusions of the study?
6. Were future GS-14 Deputy Assistant Bureau Chief for Management positions eliminated as a result of the study?
7. If so, why were the GS-14 positions eliminated?

8. If the positions at the GS-14 grade level were eliminated, are the positions at the GS-15 level still supportable?
9. Does the study impact GS-343-13 and/or GS-343-14 Management Analysts in the administrative offices? If so, how?
10. How do the results of the study affect future advancement or career opportunities for those who perform duties and responsibilities in the Administrative and Management Offices?
11. Has the Human Resources Management staff's assumption of additional duties, such as completing vacancy announcements for delegated examining unit (DEU) outside hires, adversely impacted the grades of any positions in the Administrative Offices? If so, what specific positions were impacted in the International Bureau?
12. Will the position descriptions of any administrative staff be made incumbency only? If so, why?
13. What other impact(s), if any, does the study have on the Administrative Offices in the Bureaus/Offices?
14. Administrative staff received conflicting information from staff with regard to the study. Do you plan to distribute copies of the study to the Administrative staff in the Bureaus/Offices? If not, what is the reason that this information will not be shared with the administrative staff?

I am willing to pay a maximum of \$25.00 for a complete and unredacted written copy of this study. Please note that I am aware that this request is not exempt under the FOIA from mandatory disclosure based on 5 U.S.C. 552(b)(2).

If you have any questions, please contact me at CherylB.Williams@fcc.gov Thanks.

Sincerely,

Cheryl B. Williams

Z0002**URGENT****Freedom of Information Act Request**

Priority processing required under the provisions of the
Freedom of Information Act
Records not routinely available

2011-423

FOIA Control Number

DMD

Bureau Office Assigned (Primary B/O)

07/08/2011

Date Time Limits Expires

Coordinating Bureaus/Offices:

1. _____ 2. _____ 3. _____ 4. _____ 5. _____

Coordinating B/Os must forward all applicable responsive materials or report negative finding to primary B/O.

Contact Person:

Telephone #:

Coordinating B/O Due Date to
Primary B/O:Name of Requester: **CHERYL B. WILLIAMS**

Classification of Requester:

☒ All Others☐ Commercial☐ News Media / Educational
and Non-commercial Scientific☐ Yes ☒ No

Fee waiver requested. This FOIA has been forwarded to OGC.

☐ Yes ☒ NoHigh profile media request. Primary B/O is requested to send a copy of the
response and attachments to OMR for informational purposes prior to release
of response.☐ Yes ☒ No

Expedited processing requested.

☐ Yes ☒ No

Other: _____



Federal Communications Commission
Washington, D.C. 20554

July 22, 2011

Ms. Cheryl B. Williams
445 12th Street, SW
Room 6-C860
Washington, DC 20554
Via email: CherylB.Williams@fcc.gov

Re: FOIA Control No. 2011-423

Dear Ms. Williams:

This letter responds to your Freedom of Information Act (FOIA) request dated June 8, 2011, which was received by the Federal Communications Commission FOIA Control Staff on June 9, 2011 and assigned the above FOIA control number.¹ An extension was granted for us to respond by July 22, 2011.

In your FOIA request you requested "a complete and unredacted written copy" of a "2010 and/or 2011" "study of administrative positions [that] was undertaken by Bonita Tingley, Chief, Human Capital Officer, in Human Resources management Office (HRM) and Mary Beth Richards, Special Counsel for FCC Reform, FCC Chairman's Office and other Commission staff." The document you requested, entitled "Assistant Bureau Chief for Management Offices Review," is an internal agency document that analyzes and makes recommendations concerning administrative positions at the Commission. The analysis and recommendations are the type of materials that may be withheld under the deliberative process privilege that is part of FOIA Exemption 5, 5 U.S.C. § 552(b)(5). Factual portions of the report may be withheld if these portions would reveal the thought processes of the decision makers involved and are therefore part of the deliberative process.

This determination does not, however, end our analysis. The FOIA requires that records be reviewed to determine if any segregable portions can be released. 5 U.S.C. § 552(b) (sentence immediately following exemptions). We have reviewed the records and determined that some purely factual portions may be segregated and released on this basis. We also reviewed the records to determine if discretionary release is appropriate. *See Memorandum to Heads of Executive Departments and Agencies, Freedom of Information Act*, 74 FR 4683 (2009) (President Obama's memorandum concerning the FOIA); *The Freedom of Information Act (FOIA)*, available at <[http:// www.usdoj.gov/ag/foia-memo-march2009.pdf](http://www.usdoj.gov/ag/foia-memo-march2009.pdf)> (Attorney General

¹ While a FOIA request may be filed by "any person," 5 U.S.C. 552(a)(3)(A), including Federal employees, it may be an improper use of agency resources for you to use your official FCC email and street address for purposes of filing a FOIA for personal use.


Holder's FOIA Memo). Because of the nature of these records, we have determined that no additional portion of the document is appropriate for discretionary release.

Finally, we note that the FOIA is a means by which the public can obtain copies of agency records. The FOIA does not provide an avenue for asking questions of an agency. We therefore decline to respond to your list of questions submitted as part of your FOIA request. *See Zemansky v. EPA*, 757 F2d 569, 574 (9th Cir. 1974).

Under the FOIA, 5 U.S.C. § 552(a)(4)(A) and section 0.470 of the Commission's rules, 47 C.F.R. § 0.470, we must charge FOIA requesters certain fees, depending on the classification of the requesters into one of three categories defined in section 0.466 of the Commission's rules. 47 C.F.R. § 0.466. You have been classified as an "all other requester," entitled to two hours of search time and 100 pages of copying free of charge. The fees that would be assessed for processing your request are *de minimis*, and therefore no fees will assessed. *See* 47 C.F.R. § 0.470(f).

If you believe that this letter constitutes a denial of your request, you may file an application for review with the FCC's Office of General Counsel within 30 calendar days of the date of this letter in accordance with Section 0.461(j) of the Commission's rules, 47 C.F.R. § 0.461(j).

Sincerely,


Mindy J. Ginsburg
Deputy Managing Director

Enclosure
cc: FOIA Officer

Assistant Bureau Chief for Management Offices Review

February 2011

Background

In 1995 the Commission developed generic Administrative Management Specialist position descriptions up to the GS-13 grade level. The expectation was that Bureaus/Offices (B/O) would only have sufficient work to support a limited number of positions at the highest grade level. Then in 2003, the Commission reviewed the administrative positions performing work within the B/Os.

[REDACTED]

FOIA
Exemption
#5

Overview

Basically every Administrative Office is responsible for the same functions. There is some variation with respect to IT systems; EB, WCB, and IB have IT support within the Administrative Office. In addition, some B/Os have unique functions such as IB's responsibility for the international travel budget, QMD's administrative support to the 8th floor and the other smaller offices (OMR, OWD, OLA) without administrative staff, OET's responsibility for the EIE program; EB, OET, CGB and OMD have staff located in other areas (e.g., Gettysburg, Columbia) and EB has responsibility for the field which includes administrative oversight of cars, buildings, and equipment.

[REDACTED]

Exem
#5

Analysis/Findings

[REDACTED]

#5

[REDACTED]

#5

[REDACTED]

#5

[REDACTED]

#5

[REDACTED]

#5

Current Staff Size

B/O	Total Employees	ABC Staff
ALJ	3	1
CGB	178	6
EB	280	15
IB	127	7
MB	196	9
OCBO	13	1
OET	81	3
OGC	74	3
OIG	42	3
OMD	285	10
OSP	40	1
PSHSB	111	7
WCB	158	8
WTB	216	8

[REDACTED]

#5

Recommendations

[REDACTED]

#5

[REDACTED]

5

#5

5

4

[REDACTED]

Next Steps

[REDACTED]

[REDACTED]

#5

[REDACTED]

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
CHERYL B. WILLIAMS)	FOIA Control No. 2011-423
)	
On Request for Inspection of Records)	

MEMORANDUM OPINION AND ORDER

Adopted: January 6, 2012

Released: January 6, 2012

By the Commission:

I. INTRODUCTION

1. By this Memorandum Opinion and Order, we deny an Application for Review (AFR) filed by Cheryl B. Williams (Williams)¹ seeking review of a decision of the Office of Managing Director (OMD)² that granted in part and denied in part her Freedom of Information Act (FOIA) request³ for a “complete and unredacted copy” of a “study of administrative positions” undertaken by Bonita Tingley, Chief Human Capital Officer, and others.⁴ We find that OMD correctly determined that the agency records that were not disclosed are deliberative materials that fall within FOIA Exemption 5, and that there are no additional segregable portions of those records that could be released. We further find that OMD correctly observed that the FOIA does not provide an avenue for asking questions of an agency, and, therefore, OMD appropriately declined to answer the list of questions Williams included in the Request.⁵

II. BACKGROUND

2. Williams’ Request seeks a complete and unredacted copy of “a study of administrative positions” undertaken by Bonita Tingley and others “during 2010 and/or 2011.”⁶ In searching their files,

¹ See Email from Williams to Austin Schlick, General Counsel, FCC (August 12, 2011) (AFR). Williams subsequently sent a Memorandum to Laurence Schecker, Special Counsel, Office of General Counsel, FCC, dated August 29, 2011 (Memorandum) supplementing the August 12, 2011 email. Because the Memorandum was submitted within the 30 day timeframe for filing an application for review of a FOIA denial, we are treating the Memorandum as part of the Application for Review. See 47 C.F.R. § 0.461(j).

² See Letter from Mindy Ginsburg, Deputy Managing Director, FCC to Williams (July 22, 2011) (Decision).

³ See Letter from Williams to Bonita Tingley, Mary Beth Richards and Edward Lazarus, FCC (June 8, 2011) (Request).

⁴ *Id.* at 1.

⁵ *Id.* at 1-2.

⁶ *Id.* at 1.

FCC officials located the document requested by Williams – a report entitled “Assistant Bureau Chief for Management Offices Review – February 2011”⁷ (Review).

3. OMD determined that the Review is exempt from disclosure pursuant to the deliberative process privilege of FOIA Exemption 5⁸ because “it is an internal agency document that analyzes and makes recommendations concerning administrative positions at the Commission.”⁹ As required by the FOIA, OMD reviewed the records subject to Exemption 5 to determine if segregable portions of those records could be released and determined that there were factual portions of the Review that could be released.¹⁰ OMD also reviewed the records subject to Exemption 5 to determine if discretionary release is appropriate and determined that because of the nature of the Review, no additional portions of the Review are appropriate for discretionary release.¹¹

III. APPLICATION FOR REVIEW

4. In her Memorandum, Williams argues that OMD erred in failing to give her an unredacted copy of the Review because the Commission is obligated to make available to the public “statements of general policy . . . formulated and adopted by the Commission.”¹² Williams argues in the Memorandum that the Review “establishes new human resources policies agency-wide that have a direct impact on administrative staff throughout the Commission.”¹³ She asserts that the conclusions of the Review may “limit the future career growth of administrative staff” and result, *inter alia*, in the elimination of the Deputy Assistant Bureau Chief for Management positions.¹⁴ Williams concludes in her Memorandum that “all administrative staff in the Commission have a right to know how the study impacts their position and future career advancement.”¹⁵

IV. DISCUSSION

5. Williams’ arguments as set forth in her Memorandum do not warrant a different result than that reached by OMD. Specifically, we find that OMD correctly applied Section 552(a)(2)(D), Exemption 5, and other provisions of the FOIA.

6. *The Requirements of Section 552(a)(2)(D).* As Williams notes, the FOIA requires federal agencies to publish in the Federal Register for the guidance of the public “substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency.”¹⁶ The FOIA also requires that federal

⁷ See Response at 1.

⁸ 5 U.S.C. § 552(b)(5).

⁹ Response at 1.

¹⁰ *Id.* The redacted records were provided to Williams.

¹¹ *Id.* at 2. See *President’s Memorandum for the Heads of Executive Departments and Agencies, Freedom of Information Act*, 74 Fed.Reg. 4683 (Jan. 21, 2009); *Attorney General’s Memorandum for Heads of Executive Departments and Agencies Concerning the Freedom of Information Act* (Mar. 19, 2009) (available at <http://www.usdoj.gov/ag/foia-memo-march2009.pdf>).

¹² Memorandum at 1, citing 5 U.S.C. § 552(a)(1)(D).

¹³ Memorandum at 2.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ 5 U.S.C. § 552(a)(1)(D).

agencies make certain materials available for public inspection and copying. These include, *inter alia*, “those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register”¹⁷ as well as “administrative staff manuals and instructions to staff that affect a member of the public.”¹⁸ These provisions require proactive disclosure in that they require the agency to publish or make the material available without a FOIA request.

7. None of these provisions is applicable to the Review because it has not been adopted by the agency but instead consists of staff analysis and recommendations. As OMD correctly stated, the Review is “an internal agency document that analyzes and makes recommendations concerning administrative positions at the Commission.”¹⁹ Moreover, contrary to Williams’ assertion, the Review does not establish “new human resources policy agency-wide”²⁰ If and when the Commission acts on the recommendations in the Review, it will determine, consistent with the FOIA, whether they rise to the level of policy documents required to be published in the Federal Register or made available for public inspection and copying. In this regard, we note that the FOIA does not require an agency to formulate policy, “but only to publish the policy that it in fact formulates.”²¹

8. *Exemption 5.* OMD was correct in determining that the Review is exempt from disclosure pursuant to the deliberative process privilege of FOIA Exemption 5²² because “it is an internal agency document that analyzes and makes recommendations concerning administrative positions at the Commission.”²³ Exemption 5 encompasses a deliberative process privilege intended to “prevent injury to the quality of agency decisions.”²⁴ To fall within the scope of this privilege the agency records must be both predecisional and deliberative.²⁵ Predecisional records must have been “prepared in order to assist an agency decision maker in arriving at his decision.”²⁶ Deliberative records must be such that their disclosure “would expose an agency’s decisionmaking process in such a way as to discourage candid discussion within the agency and thereby undermine the agency’s ability to perform its functions.”²⁷ The Review meets both of these tests. It is predecisional because it contains staff recommendations to be considered by agency decisionmakers, and it is deliberative because it reflects staff discussions and evaluations within the agency, which are at the core of the consultative process.

¹⁷ *Id.* § 552(a)(2)(B).

¹⁸ *Id.* § 552(a)(2)(C).

¹⁹ Response at 1.

²⁰ Memorandum at 2.

²¹ *Alcaraz v. Block*, 746 F.2d 593, 609-10 (9th Cir. 1984).

²² 5 U.S.C. § 552(b)(5).

²³ Response at 1.

²⁴ *NLRB v. Sears Roebuck & Co.*, 421 U.S. 132, 151 (1975).

²⁵ *Id.* at 151-52.

²⁶ *Formaldehyde Inst. v. Dep’t of Health and Human Servs.*, 889 F.2d 1118, 1122 (D.C. Cir. 1989); *see also Coastal States Gas Corp. v. Dep’t of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980) (“In deciding whether a document should be protected by the privilege we look to whether the document is . . . generated before the adoption of an agency policy and whether . . . it reflects the give-and-take of the consultative process. The exemption thus covers recommendations, draft documents, proposals, suggestions, and other subjective documents . . .”).

²⁷ *Formaldehyde Inst.*, 889 F.2d at 1122, (quoting *Dudman Commc’ns Corp. v. Dep’t of the Air Force*, 815 F.2d 1565, 1568 (D.C. Cir. 1987)).

9. As OMD did, we have examined the agency records at issue here to determine whether any additional portions could be segregated and released, or whether any of the records should be released in the exercise of our discretion under the FOIA.²⁸ We can identify no additional non-exempt material that can be reasonably segregated from the withheld records, beyond the material released by OMD in response to the Request.²⁹

10. *Responding to Questions under the FOIA.* OMD also correctly determined that the FOIA provides a means for the public to obtain copies of agency records and is not a mechanism for seeking answers to questions a member of the public desires to pose.³⁰ OMD thus properly declined to respond to the list of questions Williams submitted as part of her FOIA request.

V. ORDERING CLAUSE

11. IT IS ORDERED that Williams' Application for Review is DENIED. Williams may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).³¹

12. The following officials are responsible for this action: Chairman Genachowski and Commissioners McDowell and Clyburn.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

²⁸ See *President's Memorandum for the Heads of Executive Departments and Agencies, Freedom of Information Act*, 74 Fed.Reg. 4683; *Attorney General's Memorandum for Heads of Executive Departments and Agencies Concerning the Freedom of Information Act* (Mar. 19, 2009) (available at <http://www.usdoj.gov/ag/foia-memo-march2009.pdf>).

²⁹ See *Mead Data Cent., Inc. v. U.S. Dep't of the Air Force*, 566 F.2d 242, 260 (D.C. Cir. 1977).

³⁰ See *Zemansky v. EPA*, 767 F.2d 569, 574 (9th Cir. 1974); *DiViaio v. Kelley*, 571 F.2d 538, 542-43 (10th Cir. 1978).

³¹ We note that as part of the Open Government Act of 2007, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect Williams' right to pursue litigation. Williams may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Telephone: 301-837-1996
Facsimile: 301-837-0348
Toll-free: 1-877-684-6448